

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HAROLD E. HARTER,
Plaintiff,

v.

E.K. McDANIEL, et al.,
Defendants.

Case No. 3:16-cv-00118-RCJ-WGC

Order

I. DISCUSSION

On July 18, 2016, the Court issued an order screening Plaintiff's complaint (ECF No. 3). The screening order dismissed Plaintiff's complaint without prejudice and granted Plaintiff thirty days to file an amended complaint. (ECF No. 3 at 6:26-7:13). Plaintiff subsequently filed a motion to stay the screening order (ECF No. 5) that the Court construed as a motion for reconsideration. On August 30, 2016, the Court issued an order denying Plaintiff's motion to stay the original screening order (ECF No. 7). In light of the Court's denial of Plaintiff's motion for stay, the Court now grants Plaintiff an extension to file his amended complaint, if any.

Plaintiff is granted leave to file an amended complaint to cure the deficiencies of the complaint. If Plaintiff chooses to file an amended complaint he is advised that an amended

1 complaint supersedes the original complaint and, thus, the amended complaint must be
2 complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542,
3 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint
4 is irrelevant; an amended pleading supersedes the original”); see also *Lacey v. Maricopa*
5 *Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a
6 plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve
7 them for appeal). Plaintiff’s amended complaint must contain all claims, defendants, and
8 factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file
9 the amended complaint on this Court’s approved prisoner civil rights form and it must be
10 entitled “First Amended Complaint.”

11 The Court notes that if Plaintiff chooses to file an amended complaint curing the
12 deficiencies of the complaint, as outlined in the original screening order (ECF No. 3) and the
13 Court’s order denying Plaintiff’s motion to stay (ECF No. 7), Plaintiff shall file the amended
14 complaint within fourteen (14) days from the date of entry of this order. If Plaintiff chooses not
15 to file an amended complaint curing the stated deficiencies, this action shall be dismissed
16 without prejudice.

17 **II. CONCLUSION**

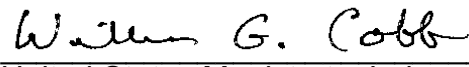
18 For the foregoing reasons, IT IS ORDERED that in light of the Court’s order denying
19 Plaintiff’s motion to stay the original screening order (ECF No. 7), the Court grants Plaintiff an
20 extension to file an amended complaint.

21 IT IS FURTHER ORDERED that if Plaintiff chooses to file an amended complaint curing
22 the deficiencies of his complaint, as outlined in the original screening order (ECF No. 3) and
23 the Court’s order denying Plaintiff’s motion to stay (ECF No. 7), Plaintiff shall file the amended
24 complaint within fourteen (14) days from the date of entry of this order.

25 IT IS FURTHER ORDERED that if Plaintiff chooses to file an amended complaint, he
26 must use the approved form sent to him with the Court’s original screening order and he shall
27 write the words “First Amended” above the words “Civil Rights Complaint” in the caption.

1 IT IS FURTHER ORDERED that if Plaintiff chooses not to file an amended complaint
2 curing the stated deficiencies of the complaint, this action shall be dismissed without prejudice.

3 DATED: September 1, 2016.

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6 United States Magistrate Judge
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